

By: White

H.B. No. 3519

Substitute the following for H.B. No. 3519:

By: Dutton

C.S.H.B. No. 3519

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the ability of a child, parent, or other person
3 responsible for a child's support to pay juvenile probation fees or
4 court costs and fees imposed by a juvenile court.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 53.03(d), Family Code, is amended to
7 read as follows:

8 (d) The juvenile board may adopt a fee schedule for deferred
9 prosecution services [~~and rules for the waiver of a fee for~~
10 ~~financial hardship~~] in accordance with guidelines that the Texas
11 Juvenile Justice Department shall provide. The maximum fee is \$15
12 a month. If the board adopts a schedule, subject to Section 53.031
13 [~~and rules for waiver~~], the probation officer or other designated
14 officer of the court shall collect the fee authorized by the
15 schedule from the parent, guardian, or custodian of a child for whom
16 a deferred prosecution is authorized under this section or waive
17 the fee in accordance with Section 53.031 [~~the rules adopted by the~~
18 ~~board~~]. The officer shall deposit the fees received under this
19 section in the county treasury to the credit of a special fund that
20 may be used only for juvenile probation or community-based juvenile
21 corrections services or facilities in which a juvenile may be
22 required to live while under court supervision. If the board does
23 not adopt a schedule [~~and rules for waiver~~], a fee for deferred
24 prosecution services may not be imposed.

1 SECTION 2. Chapter 53, Family Code, is amended by adding
2 Section 53.031 to read as follows:

3 Sec. 53.031. DEFERRED PROSECUTION SERVICES FEE. (a)
4 Before a probation officer or other designated officer of the court
5 may collect a deferred prosecution services fee from a parent or
6 other person responsible for the child's support under Section
7 53.03(d), the officer shall conduct an assessment to determine
8 whether the payment of the fee, in whole or in part, would cause
9 undue hardship.

10 (b) A parent or other person responsible for the child's
11 support must be given the opportunity to provide documentation
12 that:

13 (1) the household of the parent or other person earns
14 not more than 125 percent of the income standards established by
15 applicable federal poverty guidelines; or

16 (2) the parent, other person, or family of the parent
17 or other person currently receives assistance or benefits under:

18 (A) the child health plan program under Chapter
19 62, Health and Safety Code;

20 (B) the financial assistance program under
21 Chapter 31, Human Resources Code;

22 (C) the medical assistance program under Chapter
23 32, Human Resources Code;

24 (D) the supplemental nutrition assistance
25 program under Chapter 33, Human Resources Code;

26 (E) the Temporary Assistance for Needy Families
27 program; or

1 (F) the federal special supplemental nutrition
2 program for women, infants, and children authorized by 42 U.S.C.
3 Section 1786.

4 (c) The probation officer or other designated officer of the
5 court shall make a finding that the payment of a fee would cause
6 undue hardship and waive the fee under Section 53.03(d) if the
7 parent or other person provides the documentation under Subsection
8 (b).

9 (d) In determining whether the fee would cause undue
10 hardship for a parent or other person whose payment is not waived
11 under Subsection (c), the officer shall consider whether the person
12 could reasonably pay the required obligation after the person
13 discharged the person's other important financial obligations,
14 including payments for housing, food, utilities, necessary
15 clothing, education, and preexisting debts.

16 (e) If the probation officer or other designated officer of
17 the court determines under Subsection (d) that the parent or other
18 person is unable to pay the fee in whole or in part without
19 experiencing undue hardship, the officer shall waive the fee or
20 collect a reduced fee in an amount that the officer determines will
21 not cause an undue hardship.

22 SECTION 3. Chapter 54, Family Code, is amended by adding
23 Section 54.021 to read as follows:

24 Sec. 54.021. COURT-ORDERED FEE OR COST. (a) Before a court
25 may impose a fee or cost on a child, parent, or other person
26 responsible for the child's support, the court shall conduct an
27 assessment to determine whether the fee or cost would cause undue

1 hardship.

2 (b) The court shall make a finding that the child, parent,
3 or other person is unable to pay a fee or cost without experiencing
4 undue hardship and waive the fee or cost if the parent or other
5 person provides documentation that:

6 (1) the household of the child, parent, or other
7 person earns not more than 125 percent of the income standards
8 established by applicable federal poverty guidelines; or

9 (2) the child, parent, or other person or family of the
10 child, parent, or other person currently receives assistance or
11 benefits under:

12 (A) the child health plan program under Chapter
13 62, Health and Safety Code;

14 (B) the financial assistance program under
15 Chapter 31, Human Resources Code;

16 (C) the medical assistance program under Chapter
17 32, Human Resources Code;

18 (D) the supplemental nutrition assistance
19 program under Chapter 33, Human Resources Code;

20 (E) the Temporary Assistance for Needy Families
21 program; or

22 (F) the federal special supplemental nutrition
23 program for women, infants, and children authorized by 42 U.S.C.
24 Section 1786.

25 (c) In determining whether a fee or cost would cause undue
26 hardship for a child, parent, or other person whose payment is not
27 waived under Subsection (b), the court shall consider whether the

1 person could reasonably pay the court-ordered obligation after the
2 person discharged the person's other important financial
3 obligations, including payments for housing, food, utilities,
4 necessary clothing, education, and preexisting debts.

5 (d) A court that makes a finding under Subsection (c) that
6 the child, parent, or other person is unable to pay the fee or cost
7 in whole or in part without experiencing undue hardship shall waive
8 the fee or order the child, parent, or other person to pay a reduced
9 fee or cost in an amount that the court finds would not cause an
10 undue hardship.

11 (e) The inability of the child, parent, or other person
12 responsible for the child's support to pay any fee or cost related
13 to the child's case may not result in:

14 (1) the child being denied access to a more favorable
15 disposition of the child's case, programming, or treatment;

16 (2) the child's probation or supervision being
17 extended; or

18 (3) additional punishment for the child.

19 SECTION 4. Section 54.032, Family Code, is amended by
20 adding Subsection (i) to read as follows:

21 (i) The court shall waive or reduce a fee under Subsection
22 (e), (g), or (h) if the court makes a finding under Section 54.021
23 that the child is unable to pay the fee in whole or in part without
24 experiencing undue hardship.

25 SECTION 5. Section 54.0325, Family Code, is amended by
26 adding Subsection (j) to read as follows:

27 (j) The court shall waive or reduce a fee under Subsection

1 (g) or (h) if the court makes a finding under Section 54.021 that
2 the child is unable to pay the fee in whole or in part without
3 experiencing undue hardship.

4 SECTION 6. Section 54.0404(b), Family Code, is amended to
5 read as follows:

6 (b) A juvenile court that enters an order under Subsection
7 (a) shall require the child or the child's parent or other person
8 responsible for the child's support to pay the cost of attending an
9 educational program under Subsection (a) if the court determines
10 that the child, parent, or other person is financially able to make
11 payment. The court shall waive or reduce the cost of attending the
12 program if the court makes a finding under Section 54.021 that the
13 child, parent, or other person is unable to pay the cost in whole or
14 in part without experiencing undue hardship.

15 SECTION 7. Section 54.041, Family Code, is amended by
16 adding Subsection (a-1) to read as follows:

17 (a-1) The court shall waive or reduce the cost of attending
18 treatment programs under Subsection (a)(4) if the court makes a
19 finding under Section 54.021 that the parent or other person is
20 unable to pay the cost in whole or in part without experiencing
21 undue hardship.

22 SECTION 8. Section 54.0411, Family Code, is amended by
23 adding Subsection (a-1) to read as follows:

24 (a-1) The court shall waive or reduce the fee under
25 Subsection (a) if the court makes a finding under Section 54.021
26 that the child, parent, or other person is unable to pay the fee in
27 whole or in part without experiencing undue hardship.

1 SECTION 9. Section 54.0461(c), Family Code, is amended to
2 read as follows:

3 (c) The court shall waive or reduce the fee under this
4 section if [If] the court makes a finding under Section 54.021
5 [finds] that a child, parent, or other person responsible for the
6 child's support is unable to pay the juvenile delinquency
7 prevention fee required under Subsection (a) in whole or in part
8 without experiencing undue hardship. The [the] court shall enter
9 into the child's case records a statement of that finding. [The
10 court may waive a fee under this section only if the court makes the
11 finding under this subsection.]

12 SECTION 10. Section 54.0462(c), Family Code, is amended to
13 read as follows:

14 (c) The court shall waive or reduce the fee under Subsection
15 (a) if [If] the court makes a finding under Section 54.021 [finds]
16 that a child, parent, or other person responsible for the child's
17 support is unable to pay the fee required under Subsection (a) in
18 whole or in part without experiencing undue hardship. The [the]
19 court shall enter into the child's case records a statement of that
20 finding. [The court may waive a fee under this section only if the
21 court makes the finding under this subsection.]

22 SECTION 11. Section 54.047(f), Family Code, is amended to
23 read as follows:

24 (f) If the court orders a child under Subsection (a) or (b)
25 to attend a drug education program or alcohol awareness program,
26 ~~[unless the court determines that the parent or guardian of the~~
27 ~~child is indigent and unable to pay the cost,]~~ the court shall

1 require the child's parent or other person responsible for the
2 child's support [~~a guardian of the child~~] to pay the cost of
3 attending the program. The court shall allow the child's parent or
4 other person [~~guardian~~] to pay the cost of attending the program in
5 installments. The court shall waive or reduce the cost of attending
6 the program if the court makes a finding under Section 54.021 that
7 the parent or other person is unable to pay the cost in whole or in
8 part without experiencing undue hardship.

9 SECTION 12. Section 54.06, Family Code, is amended by
10 adding Subsection (a-1) to read as follows:

11 (a-1) The court shall waive or reduce the payment for
12 support under Subsection (a) if the court makes a finding under
13 Section 54.021 that the parent or other person is unable to make the
14 payment in whole or in part without experiencing undue hardship.

15 SECTION 13. Section 54.061(d), Family Code, is amended to
16 read as follows:

17 (d) The court shall waive or reduce the fee under Subsection
18 (a) if [~~If~~] the court makes a finding under Section 54.021 [~~finds~~]
19 that a child, parent, or other person responsible for the child's
20 support is financially unable to pay the probation fee required
21 under Subsection (a) in whole or in part without experiencing undue
22 hardship. The [~~the~~] court shall enter into the records of the
23 child's case a statement of that finding. [~~The court may waive a~~
24 fee under this section only if the court makes the finding under
25 this subsection.]

26 SECTION 14. The changes in law made by this Act apply only
27 to a fee, cost, or other payment imposed on or after the effective

1 date of this Act. A fee, cost, or other payment imposed before the
2 effective date of this Act is governed by the law in effect on the
3 date the fee, cost, or payment was imposed, and the former law is
4 continued in effect for that purpose.

5 SECTION 15. Section [51.607](#), Government Code, does not apply
6 to the change in the amount of fees or court costs made by this Act.

7 SECTION 16. This Act takes effect September 1, 2017.